PROFESSIONAL SERVICES TERMS AND CONDITIONS

1. "Client" is defined as Dynamic Systems (DSI), LLC (and may also be referred to herein as "Dynamics," "DSI," "Purchaser" or "Contractor") and "Supplier" is defined as the other party to the Purchase Order including Supplier's subcontractors of every tier (and may also be referred to herein as "Seller" or "Subcontractor"). Supplier shall furnish and pay for all labor and professional services to be performed as required herein and which are necessary or incidentally required for the completion of this Purchase Order ("PO").
2. **SCOPE OF SERVICES** ("Services") include: (a) The Supplier shall furnish and pay for all labor, materials, equipment, services, tools, and supplies necessary or incidentally required for completion of the Services for agreed upon Price. Services provided by Supplier shall be performed with the professional skill and care ordinarily provided by competent professionals practicing under the same or similar circumstances and professional license ("Standard of Care") and Supplier will correct those Services not meeting such Standard of Care without additional compensation. (b) Supplier warrants that it is properly licensed to provide all Services, including without limitation all Services, to be provided by Supplier under this PO. (c) Supplier will comply with all federal, state and municipal laws, codes, rules, regulations and ordinances applicable to Supplier and Supplier's performance hereunder ("Law(s)"). (d) Supplier warrants that all the Services furnished under this PO shall be in strict accordance with the Standard of Care and applicable Contract Documents for the Project(s) on which the Services will be utilized. (e) Supplier is and shall be the sole employer and shall be obligated to perform all requirements of an employer under Laws. (f) Supplier agrees to pay and to be solely responsible for any and all city, state, and/or federal unemployment insurance premiums, workers' compensation insurance premiums, income taxes, social security taxes, and any other employment related taxes incurred as a result of providing the Services to Client under this PO, and to be responsible for all obligations, reports, and timely notifications relating to such matters. Client shall have no obligation to pay or withhold any sums for taxes or unemployment insurance on any amounts due Supplier. (g) Supplier shall comply with all Laws, including, without limitation, all applicable provisions of the Civil Rights Act and to be an equal opportunity employer for the duration of this PO.(h) Supplier is the employer of all personnel providing Services and shall be responsible for all personnel matters involving such personnel including, but not limited to, the following: vacation/leave requests, reporting injury/illness, compensation and benefits, corrective action/discipline, and drug screening. (i) In the event that Client has reasonable objection to any personnel provided by Supplier to perform Services, that person shall be removed immediately upon notification to Supplier of such objection.
3. **PAYMENT:** Supplier will submit its invoices with appropriate backup to Client on a monthly basis for Services properly completed by Supplier. To the extent permitted by applicable law, Payments by Client to Supplier under this PO are expressly contingent upon and subject to the Owner's acceptance of the Services provided by the Supplier and Client's receipt of payment from the party with whom the Client has contracted to supply the Services provided under this PO and Supplier agrees to accept and assume the risk of non-payment if Client is not paid for the Services by the party to which Client is providing the Services. All amounts payable hereunder or by reason of any breach hereof to Supplier by Client, or by Client to Supplier, shall be payable at Client's office in the State where the Project is located.
4. **CONFIDENTIALITY:** Supplier agrees this PO and the terms and provisions hereof, and all data and information with respect to the Project(s) at issue, are confidential and shall not be disclosed to third parties except as may be required by law. Supplier will comply with all applicable confidentiality related terms and provisions of the Contract Documents for the Project(s) on which the Services will be utilized. Notwithstanding any provision herein to the contrary, to the extent Supplier's NDA, if any, conflicts or is incompatible with any provision in any Project flow-down NDA(s) signed by Supplier, such Project flow-down NDA(s) shall govern.
5. **SAFETY:** Supplier shall give all notices required by and comply with all Laws bearing on the safety of persons or property or their protection from damage, injury, or loss. Supplier shall comply with the stated Safety Policies and Program of Client, understanding that failure of any Supplier's employee to comply could result in Client requiring the Supplier to remove the employee from the Project site. In such event, Supplier understands that it will be responsible for providing replacement employee(s). A copy of Client's Safety Policies and Program are available upon written request to Client's Project Manager.
6. **WARRANTY:** Supplier expressly warrants and guarantees to the Owner, Prime Contractor, Architect/Engineer and Client that: (a) all Services shall meet the Standard of Care and strictly conform to the requirements of the Contract Documents and Services not conforming, including substitutions not properly approved and authorized, will be considered defective; and (b) Supplier shall promptly perform all required corrective or remedial services and shall execute and deliver to Client such other and further documents required by the Contract Documents or reasonably requested by Client to further evidence Supplier's warranties and guarantees. Supplier shall be responsible for full performance of all guaranties and warranties required hereunder regardless of whether any such separate warranties and guaranties are actually delivered by Supplier or any conflicting provisions in such guaranties and warranties. These warranties and guarantees shall be in addition to and not in limitation of any other warranties or remedies required under the Contract Documents. In the event this PO is terminated for any reason, Supplier's warranties, guarantees, and indemnities with respect to the Services performed through the date of termination shall survive such termination and be in full force and effect for the period of time prescribed by the Contract Documents, this PO or law, whichever is longer.
7. **INSURANCE**: (a) Supplier agrees to procure and maintain such Commercial General Liability insurance as will protect Client from claims for damage because of bodily injury, including death or damage because of injury to or loss, destruction, or loss of use of property which may arise from Supplier's performance or lack performance under this PO. Supplier's Commercial General Liability insurance shall provide minimum limits of $1,000,000 per occurrence and $2,000,000 general aggregate limits on a per project basis. (b) Supplier agrees to procure and maintain through the duration of the Work, Workers' Compensation insurance as required by statute and Employers' Liability insurance with minimum limits of $1,000,000 per occurrence. (c) Supplier warrants that it currently maintains and will continue to maintain for the duration of this PO, Professional Liability insurance of no less than $1,000,000 per claim for protection against claims arising out of Supplier's performance of Services. (d) When applicable, Supplier warrants that it currently maintains and will continue to maintain for the duration of this PO, Cyber insurance of no less than $1,000,000 per claim. Supplier agrees to provide certificates that provide evidence of insurance in accordance with this PO. (e) Supplier agrees to name the INDEMNITEES (defined below) as an additional insured on all policies except Workers Compensation and Professional Liability. All policies shall provide a Waiver of Subrogation in favor of THE INDEMNITEES and the coverage shall be primary and noncontributory over any insurance maintained by the INDEMNITEES. Thirty (30) days' prior written notice shall be given to Client prior to any material change in required coverages. Supplier's obtaining or failure to obtain the required insurance shall in no way relieve the Supplier from its indemnity obligations hereunder. Further, the Supplier's indemnity obligations shall extend to the full amount of any damage, loss, or liability described in the indemnity provisions of this PO, and the Supplier's indemnity obligations shall not be limited to the amount of insurance obtained or required. Supplier shall furnish to Client evidence of insurance coverages and limits required herein upon execution of this PO on industry standard forms and/or copies of endorsements. Failure to provide satisfactory evidence of insurance shall give Client the absolute right, but not obligation, to terminate Services under this PO. (f) When applicable, Supplier must comply with all OCIP/ROCIP/CCIP ("CIP") requirements that apply to Supplier per the CIP Manual. If Supplier is excluded and therefore NOT required to enroll in the CIP Program; Supplier must still comply with all the CIP requirements that apply to an excluded Supplier .
8. **INDPENDENT CONTRACTOR:** Supplier shall be at all times and in all respects an independent contractor and is not an agent or an employee of Client. Supplier shall have no authority to bind Client by any representation, promise, or statement of any kind. Supplier shall not interfere with Client's relationship with the Project Owner, other contractors or subcontractors. Supplier shall not deal directly with either the Project Owner or the Project Architect/Engineer without prior written authorization in each instance from Client.

9. Indemnity Provision – Utah:

(a) **SUPPLIER SHALL, TO THE FULLEST EXTENT PERMITTED BY LAW, INDEMNIFY, HOLD HARMLESS AND DEFEND (AT SUPPLIER'S EXPENSE AND WITH COUNSEL REASONABLY ACCEPTABLE TO INDEMNITEE), CLIENT AND ALL OTHER PARTIES REQUIRED TO BE INDEMNIFIED IN THE CONTRACT DOCUMENTS, AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, (OR MEMBERS OR PARTNERS, IF APPLICABLE), SUBSIDIARIES, EMPLOYEES, AFFILIATES, AGENTS, REPRESENTATIVES, SUCCESSORS, AND ASSIGNS (COLLECTIVELY "INDEMNITEES"), FROM AND AGAINST ALL CLAIMS, SUITS, CAUSES OF ACTION, LIABILITIES, FINES, PENALTIES, DAMAGES, DEMANDS, JUDGMENTS, LIENS, COSTS, LOSSES AND EXPENSES OF ANY KIND WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS FEES, COURT COSTS AND EXPENSES OF LITIGATION AND ARBITRATION (COLLECTIVELY "LIABILITIES"), ARISING OUT OF OR RESULTING FROM BODILY INJURY OR DEATH OF ANY PERSON, OR PROPERTY DAMAGE, INCLUDING LOSS OF USE OF PROPERTY, ARISING OR ALLEGED TO ARISE OUT OF OR IN ANY WAY RELATED TO SUPPLIER'S PERFORMANCE OR BREACH OF THIS PO OR ANY ACT, ERROR, OR OMISSION ON THE PART OF SUPPLIER, OR ANY EMPLOYEE, AGENT, INVITEE, REPRESENTATIVE OR SUBCONTRACTOR OF ANY TIER <u>EXCEPT</u> TO THE EXTENT SUCH LIABILITIES ARE CAUSED BY OR RESULT FROM THE SOLE NEGLIGENCE OF AN INDEMNITEE.**

(c) Supplier's indemnification obligations under this PO shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Supplier under Workers Compensation Acts, Disability Benefit Acts or other employee benefit acts or laws. Supplier shall procure liability insurance covering its indemnification obligations herein.

(d) It is the intention of the parties to comply with Utah Code Ann. § 13-8-1 and any other applicable laws of the state of Utah.

(e) Supplier warrants that the use or sale by the Client of the Services and the use of such Services by the Owner of the Project will not constitute an infringement of any patent or intellectual property, and Supplier agrees to indemnify, defend and hold Client and the Owner of the Project harmless from and against any and all patent infringement claims resulting from such use and/or sale.

9. (f) **ENVIRONMENTAL INDEMNITY (when applicable):** Supplier agrees that in performing its Services, it will not create, bring to Project site, use or dispose of any hazardous chemicals or substances in an unlawful or hazardous manner and shall be solely responsible for the lawful, proper and safe handling, storage and removal of all hazardous waste, chemicals and substances which are introduced to the Project site, or removed from the Project site, by Supplier's operations. The term "hazardous waste, chemicals or substances" shall mean those materials and substances prohibited, proscribed, or the use of which is controlled by any agency of the federal government or the applicable state or local agency having jurisdiction of such matters. Supplier shall comply with all federal, state, and local regulations dealing with the use, storage, removal or disposal of all hazardous waste, chemicals or substances. To the fullest extent permitted by applicable law, the Supplier expressly agrees to defend (at Supplier's expense and with counsel acceptable to Client), indemnify and hold harmless the Indemnitees from and against any and all claims, suits, losses, causes of action, damages, liabilities, fines, penalties, costs of clean-up, and expenses of any kind whatsoever, arising out of or alleged to arise out of, or in connection with any use, handling or storage of hazardous materials or any discharge, dispersal, release or seepage of hazardous materials on to or off of the Project site, or into the environment, which occurs while Supplier is performing its Services under this PO, or which arises out of any other hazardous material while under the custody or control of Supplier, except to the extent caused by the sole negligence of an Indemnitee.

10. DURATION AND TERMINATION: Termination of this PO can be accomplished by mutual agreement of the Parties at any time with or without cause following notice to the other Party. Termination of this PO will also terminate any outstanding request for Services that have not yet been performed. Client will be responsible for payment of authorized services already provided by the Supplier, but not yet invoiced. Time is of the essence in the performance of Supplier's obligations under this PO. Supplier shall deliver the Services on the date specified by the Client or, if no date is specified, in accordance with the schedule reasonably established by Client. Should Client delay Supplier's delivery of the Services or the production thereof, Supplier's sole and exclusive remedy against Client shall be an extension of time for completion equal to the delay caused, and then only if written claim for delay shall be delivered to Client within forty-eight (48) hours from the commencement of such delay. Supplier hereby waives and releases Client from any and all claims and causes of action against Supplier for damages, costs or expenses arising out of delays, hindrances or interruptions caused by SUPPLIER, except for a claim for an extension of time. The representations, warranties, and indemnification and confidentiality obligations in this PO shall remain in full force and shall survive any termination or expiration of this PO and the completion of the Project(s) at issue.

11. MISCELLANEOUS: (a) Any notice or communication required or permitted under this PO shall be given in writing and sent either by: (i) personal delivery; (ii) expedited delivery service with proof of delivery; (iii) email; or (iv) United States mail, postage-prepaid, registered or certified mail addressed to the Party, unless the address for delivery has been changed by a written notification delivered to the other Party. (b) This PO has been executed and entered into in the State of Texas and shall be construed in accordance with and governed by the Laws of Texas and of the United States of America, as applicable, and the Parties specifically agree that, with respect to arbitration relating to this PO, venue shall be proper in the City of Austin, Travis County, Texas. (c) Except as may be expressly provided herein to the contrary, this PO shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assignors. (d) All documents produced by Supplier under this PO will become the property of Client following payment. (e) In case any one or more of the provisions contained in this PO shall be held to be invalid, illegal, or unenforceable in any respect, for any reason, that provision shall not affect any other provision hereunder. (f) The captions, headings, and arrangements used in this PO are for convenience only and do not in any way affect limit, amplify, or modify the terms and provisions of this PO. (g) This PO may be modified only by a separate amendment hereto in writing signed by both Parties. (h) This PO does not create, nor does any course of conduct between Client and Supplier, any contractual relationship or benefit to any third party claimant not a Party hereto. (i) Client and Supplier agree that: (a) any proposal, offer, counteroffer, or terms and conditions previously submitted by Supplier to Client regarding the Services (i) are all rejected by both Client and Supplier and (ii) this PO is a counteroffer to such proposal, offer, counteroffer, or terms and conditions; (b) Client's payment to Supplier is expressly conditioned upon Supplier's acceptance of Client's terms and conditions as contained in this PO; (c) Client's receipt of Services from Supplier does not constitute acceptance of such Services; and (d) notwithstanding (i) any proposal, offer, counteroffer, or terms and conditions that were previously submitted by Supplier to Client; or (ii) Client's receipt the Services or Client's, Prime Contractor's or Owner's acceptance of the Services, the only terms and conditions governing and applicable to the Services are contained herein.

12. ACKNOWLEGEMENT: Each person signing this PO represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this PO and that it is a legal PO binding on such party and enforceable in accordance with its terms and conditions and APPROVED and AGREED to by the respective signatories effective as of the PO Date.